

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

JEREMY W. KELLY,

Petitioner,

v.

Civil Action No. 2:18-cv-1103

STATE OF INDIANA
(Government Office),

Respondent.

MEMORANDUM OPINION AND ORDER

Pending is the petition to transfer cause from state court to federal court, filed June 29, 2018.

This matter was previously referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for initial screening and submission to the court of his Proposed Findings and Recommendation ("PF&R") for disposition, pursuant to 28 U.S.C. § 636(b) (1) (B) .

Petitioner is presently incarcerated in the Westville Correctional Facility in Westville, Indiana, where he is serving a four-year sentence after being convicted of one count of battery in the Circuit Court of Jay County, Indiana. This matter is one of three civil actions filed by petitioner in this court regarding his Indiana criminal and habeas corpus

proceedings.¹ In the instant matter, petitioner seeks to remove or transfer to this court a pending petition for writ of habeas corpus filed in the Circuit Court of LaPorte County, Indiana.

On July 9, 2018, Magistrate Judge Tinsley entered his PF&R recommending that the court find that the petitioner may not remove or transfer his state habeas corpus proceeding from the Circuit Court of LaPorte County, Indiana to this court, that the petition to transfer cause from state court to federal court be denied, and that the matter be dismissed and removed from the docket of this court. Magistrate Judge Tinsley further recommends that the court "notify the petitioner that the continued filing of civil actions concerning his Indiana criminal or habeas corpus proceedings over which this court lacks jurisdiction and venue may result in the imposition of a pre-filing injunction prohibiting the plaintiff from filing any additional petitions or motions concerning such claims in this court, or other sanctions."

No objections having been filed, the plaintiff has waived de novo review of the matter by this court.

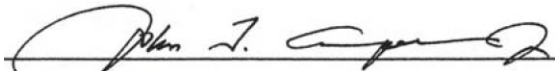
¹ Plaintiff has also filed Civil Action Nos. 2:18-cv-1078 and 2:18-cv-1104, which apparently attempt to assert claims under the Federal Tort Claims Act.

It is, accordingly, ORDERED as follows:

1. Magistrate Judge Tinsley's Proposed Findings and Recommendation be, and they hereby are, adopted and incorporated in full;
2. The petition to transfer cause from state court to federal court be, and it hereby is, denied;
3. This action be dismissed with prejudice and removed from the docket of this court; and
4. Plaintiff Jeremy W. Kelly be, and hereby is, WARNED that the continued filing of civil actions concerning his Indiana criminal or habeas corpus proceedings, over which this court lacks jurisdiction and venue, may result in the imposition of a pre-filing injunction prohibiting the plaintiff from filing any additional petitions or motions concerning such claims in this court, or other sanctions.

The Clerk is directed to forward copies of this memorandum opinion and order to the petitioner, all counsel of record, and United States Magistrate Judge Dwane L. Tinsley.

ENTER: August 1, 2018



John T. Copenhaver, Jr.
United States District Judge